

Internal Revenue Service, Treasury

§ 1.547-6

to such distributor or transferor corporation. See section 381(c)(17).

(68A Stat. 192, 917; 26 U.S.C. 547(c), 7805)

[T.D. 6500, 25 FR 11737, Nov. 26, 1960, as amended by T.D. 6657, 28 FR 5720, June 12, 1963; T.D. 7604, 44 FR 18661, Mar. 29, 1979; T.D. 8939, 66 FR 2819, Jan. 12, 2001]

§ 1.547-3 Claim for credit or refund.

(a) If a deficiency in personal holding company tax is asserted for any taxable year, and the corporation has paid any portion of such asserted deficiency, it is entitled to a credit or refund of such payment to the extent that such payment constitutes an overpayment as the result of a deduction for a deficiency dividend as provided in section 547 and §§ 1.547-1 through 1.547-7. It should be noted that a *determination* under section 547(c) and paragraph (b)(1) of § 1.547-2, of taxpayer's liability for personal holding company tax may take place subsequent to the time the deficiency was paid. To secure credit or refund of such overpayment, the taxpayer must file a claim on Form 843 in addition to the claim for the deduction for deficiency dividends required under section 547(e) and paragraph (b)(2) of § 1.547-2.

(b) No interest shall be allowed on such credit or refund.

(c) Such credit or refund will be allowed as if, on the date of the determination under section 547(c) and paragraph (b)(1) of § 1.547-2, two years remained before the expiration of the period of limitation on the filing of claim for refund for the taxable year to which the overpayment relates.

§ 1.547-4 Effect on dividends paid deduction.

The deficiency dividends deduction shall be allowed as of the date the claim is filed. No duplication of deductions with respect to any deficiency dividends is permitted. If a corporation claims and receives the benefit of the provisions of section 547 (or the corresponding section 506 of the Internal Revenue Code of 1939, or section 407 of the Revenue Act of 1938 (52 Stat. 447)), based upon a distribution of deficiency dividends, that distribution does not become a part of the dividends paid deduction under section 561. Likewise, it

will not be made the basis of a dividends paid deduction under section 561 by reason of the application of section 563(b), relating to dividends paid after the close of the taxable year and on or before the 15th day of the third month following the close of such taxable year.

§ 1.547-5 Deduction denied in case of fraud or wilful failure to file timely return.

No deduction for deficiency dividends shall be allowed under section 547(a) if the determination contains a finding that any part of the deficiency is due to fraud with intent to evade tax, or to wilful failure to file an income tax return within the time prescribed by law or prescribed by the Secretary or his delegate in pursuance of law. See § 1.547-7 for effective date.

§ 1.547-6 Suspension of statute of limitations and stay of collection.

(a) *Statute of limitations.* If the corporation files a claim for a deduction for deficiency dividends under section 547(e) and paragraph (b)(2) of § 1.547-2, the running of the statute of limitations upon assessment, distraint, and collection in court in respect of the deficiency, and all interest, additional amounts, or assessable penalties, shall be suspended for a period of two years after the date of the determination under section 547(c) and paragraph (b)(1) of § 1.547-2.

(b) *Stay of collection.* If a deficiency in personal holding company tax is established by a determination under section 547(c) and paragraph (b)(1) of § 1.547-2, collection by distraint or court proceeding (except in case of jeopardy), of the deficiency and all interest, additional amounts, and assessable penalties, shall be stayed for a period of 120 days after the date of such determination, and, to the extent any part of such deficiency remains after deduction for deficiency dividends, for an additional period until the date the claim is disallowed. After such claim is allowed or rejected, either in whole or in part, the amount of the deficiency